

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CIV09-4060

Plaintiff,

v.

DEFAULT JUDGMENT

\$22,000 IN U.S. CURRENCY,

Defendant.

The Court having reviewed the pleadings of record in this matter including the Clerk's Entry of Default (Doc. 29) and the United States' Motion for Default Judgment (Doc. 30), and Memorandum in Support (Doc. 31) thereof, hereby finds as follows:

1. As to Benjamin Mercer, Thomas Whetsal, and David Wilford, the Court finds that the parties were given personal notice of the judicial forfeiture in the above-entitled matter and that none of the aforementioned individuals have a claim or an answer of record in this matter. Mr. Mercer filed a withdrawal of his claim and answer and this Court entered an order that the documents should be withdrawn. Doc. 21. Therefore, Mr. Mercer has not filed a claim or answer which is of record in this matter. The Clerk has made an entry of default as to Benjamin Mercer, Thomas Whetsal, and David Wilford. See Doc. 29. As to the aforementioned individuals, the record before the Court does not contain a timely filed pleading indicating they claim an interest in the forfeited property as set forth in the United States' Complaint, and accordingly,

given the time to do so has lapsed, these individuals shall be prohibited from now making any such filing. See Rule G(4)(b)(ii)(B) & (5)(a)(ii)(A) of the Supplemental Rules for Certain Admiralty and Maritime Claims and 18 U.S.C. § 983(a)(4)(A) (setting forth time to file claim); see also Rule G(5)(b) and 18 U.S.C. § 983(a)(4)(B) (discussing time frames to file answer).

2. As to unknown potential claimants, the Clerk made an entry of default as to all unknown potential claimants (Doc. 29), the unknown potential claimants received notice of the forfeiture complaint in this matter via publication, no unknown potential claimants filed a claim or an answer in this matter, and the time to file a claim and answer has lapsed. See Rule G(5)(a)(ii)(B) (claimant who does not receive personal notice has sixty days from the first date of publication to file a claim); Rule G(5)(b) (after filing a claim, they then have twenty days to file an answer).

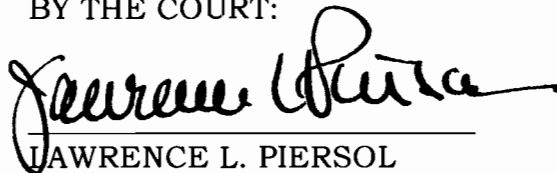
Based upon the foregoing findings and the pleadings of record in this matter, including but not limited to the Clerk's Entry of Default, the documents submitted in support of the Application for Entry of Default, the Motion for Default Judgment, and Memorandum in Support thereof,

1. IT IS HEREBY ORDERED that default judgment in the above-entitled matter as to Benjamin Mercer, Thomas Whetsal, and David Wilford shall be entered pursuant to Federal Rule of Civil Procedure 55(b)(2) and the aforementioned individuals shall be prohibited from now claiming an interest in the above-captioned defendant property.

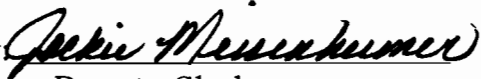
2. IT IS FURTHER ORDERED that default judgment in the above-entitled matter as to all unknown potential claimants pursuant to Federal Rule of Civil Procedure 55(b)(2) shall be entered and the time for filing a claim or answer by any individual or entity who received notice of the forfeiture through publication has lapsed.

Dated: November ²⁷30, 2010.

BY THE COURT:


LAWRENCE L. PIERSOL
District Court Judge

Joseph Haas, Clerk

By: 
Deputy Clerk